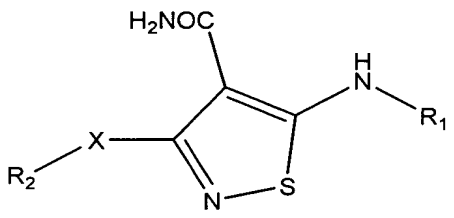


**REMARKS**

Claims 1-30 are pending in the subject application. In the July 6, 2005 Office Action, the Examiner asserted that "[t]he Markush Group set forth in the claims includes both independent and distinct inventions, and patentably distinct compounds (species) within each invention. Moreover, each of these inventions contains a plurality of patentably distinct compounds, which are too numerous to list." The Examiner is requiring that the invention be restricted to one of the following groups:

Group I. Claims 1-18, drawn to a compound of Formula 1,



Group II. Claims 19-22, drawn to methods of treatment of mammals comprising administering an effective amount of the compound of Formula 1; and

Group III. Claims 23-30, drawn to methods of treating mammals comprising administering an effective amount of compound of Formula 1.

Although we disagree with the Examiner's assertion, Applicants hereby elect Group I, drawn to claims 1-18 in order to expedite the prosecution of the subject application. Applicants have not canceled non-elected method of use claims 19-22 (Group II) and 22-30 (Group III), because these claims are drawn to subject matter which is eligible for rejoinder pursuant to the procedures set forth in the Official Gazette notice dated March 26, 1996 (1184 O.G. 86). Also see M.P.E.P. § 821.04 "Rejoinder". It is also our understanding that rejoinder of the product claims with process claims commensurate in scope with the allowed product claims will occur following the finding that the product claims are allowable.

The Examiner further asserts that "an election of a single compound is required including an exact definition of each substitution on the base molecule, wherein a single member at each substituent group or moiety is selected." Although we disagree with the Examiner's assertion, Applicants hereby select the compound 3-[1-(4-chloro-phenyl)-propylsulfanyl]-5-(pyridin-3-ylamino)-isothiazole-4-carboxylic acid amide in order to

expedite the prosecution of the subject application. This corresponds to a compound of formula 1 where R<sup>1</sup> is -2-pyridyl, X is S, and R<sup>2</sup> is -(CH<sub>2</sub>)<sub>3</sub>-4-chlorophenyl. The selected compound is recited in claim 18 (page 42, lines 18-19) of the subject application and is exemplified on page 36, Example 14.

It is our understanding that upon the election of the compound, the Examiner will review the claims and disclosure to determine the scope of the independent invention encompassing the elected compound. It is also our understanding that the scope of an independent invention will encompass all compounds within the scope of the claim including those compounds which fall into the same class and subclass as the elected compound as well as additional compounds which fall into related subclasses. It is our understanding that compounds falling outside the class(es) and subclass(es) of the selected compound will be directed to nonelected subject matter and will be withdrawn from further consideration. It is also our understanding that Applicants may reserve the right to file divisional or continuation applications directed to the nonelected subject matter.

### CONCLUSION

If the Examiner wishes to comment or discuss any aspect of this application or response, applicants' undersigned agent invites the Examiner to call him at the telephone number provided below.

Respectfully submitted,



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